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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,463	04/02/2004	Charles J. Kingdon	41854-P001US	3185
39770	7590	10/18/2005		
SANFORD E. WARREN, JR. P.O. BOX 50784 DALLAS, TX 75201				
			EXAMINER PELHAM, JOSEPH MOORE	
			ART UNIT 3742	PAPER NUMBER

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/817,463

Applicant(s)

KINGDON ET AL.

Examiner

Joseph M. Pelham

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on amdmf filed 8/2/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-20 is/are allowed.
- 6) ☒ Claim(s) 1-16 and 21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 3742

The Examiner acknowledges Applicants' submission of the amendment filed 8/2/05. Claims 1-24 remain pending.

***Claim Rejections - 35 USC § 102***

Claims 1-7, 12, 15, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. 4245613 (US'613).

Referring to Figs. 9 & 13, col. 9, lines 12-36, and col. 14, line 56, through col. 15, line 33, especially, US'613 discloses the oven as claimed, including independently controlled inlet and outlet zones and flat, "bar"-type ceramic heaters 123.

Claims 9 and 10 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over US'613. Either US'613 inherently discloses a heater power density value between 6 and 39 watts per square inch and an emitted wavelength range of 2 to 7 microns, since this power density and IR range are required as a matter of course in commercial, high volume food cooking, or they would have been obvious to the artisan for the same reason, and determined strictly in accord with the particular food items being cooked.

***Claim Rejections - 35 USC § 103***

Claims 8, 11, 13, 14, 16, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US'613 in view of US Pat. 3528362 (US'362) and US Pat. 6075230 (US'230).

The claims differ from US'613 only in calling for concave ceramic heaters, and a first set point temperature for the first heating zone and a second set point temperature for the inlet and outlet heating zones.

However, US'362 discloses, at Fig. 1 and col. 2, lines 45-58, that concave heaters 12, 12a, 13, 13a were well known at the time of the invention for use in plural zone conveyor ovens. US'230 discloses, at Fig. 1 and col. 1, line 64, through col. 2, line 4, specifically ceramic concave heaters.

It would have been obvious to adapt the concave ceramic heaters of US'230 to the oven of US'613 since US'362 discloses such to be appropriate according to the specific type of cooking process, where a 'roasting' process, for example, would require such intensity of radiant heat, and ceramic is commended by its efficiency, durability, and manufacturing economy.

Moreover, the set point temperatures do not patentably distinguish the claimed invention from the prior art; it would have been obvious to select the recited set point temperatures, or alternative settings, strictly in accord with known temperature regimes required for specific cooking processes and particular food items. The Examiner notes as well the heater of US'230 appears *prima facie* to have power density in the range 6-39 W/sq. in.

***Allowable Subject Matter***

Claims 17-20 are allowed.

Art Unit: 3742

***Response to Arguments***

Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

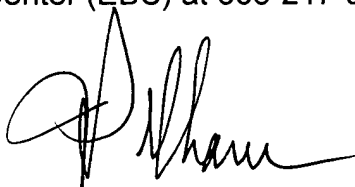
*The Examiner respectfully urges, for the sake of expediency, that when responding to this Office action Applicants review the prior art cited but not applied.*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M. Pelham whose telephone number is 571-272-4786. The examiner can normally be reached on M-F 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

10/07/05



JOSEPH PELHAM  
PRIMARY EXAMINER